REMARKS/ARGUMENTS

Claims 1-5, 9, 14, 15, 17 and 18 remain in the application, all of which stand rejected. Claims 6-8, 10-13, 16, 19 and 20 have been cancelled.

1. Finality of Office Action Believed Premature

The finality of the Office Action dated April 11, 2005 is believed to be premature. On March 14, 2005, Applicants filed a Response in which no amendments were made. In response to Applicants' Response, the Examiner withdrew some of his previous rejections and issued new ones. The Examiner also made his rejections final.

MPEP 706.07(a) states, in part:

> . . .second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

In this case, the Examiner's new ground of rejection was not necessitated by any amendment by Applicants. Nor was the Examiner's new ground of rejection based on information submitted by Applicants in an Information Disclosure Statement. Applicants therefore ask the Examiner to withdraw the finality of his Office Action.

2. The Rejection of Claims 1-4 Under 35 USC 103(a)

Claims 1-4 stand rejected under 35 USC 103(a) as being unpatentable over Chuah (US Pat. No. 6,377,548) in view of Jepson (US Pat. No. 6,366,581).

With respect to claim 1, the Examiner asserts that Chuah teaches "selecting a requested level of service for a transaction" in column 33, lines 41-56, where Chuah states:

> Upon receiving an associate request frame from a wireless mode, after the AP has successfully authenticated the wireless modem. . .if it is desirable to provide different QoSs to different users (albeit potentially from the same wireless modem), then each user is given a different connection identity.

More specifically, Chuah teaches that different QoSs may be assigned to *different users* or *different connections of a user*. However, Chuah does not teach the assignment of different QoSs at the more granular level of different "transactions".

The Examiner further asserts that Chuah teaches "program code for assigning said requested level of service to said transaction" in FIG. 16. Applicants respectfully disagree. What Chuah's FIG. 16 discloses is the assignment of "service tags" to each of a node's packets. However, there is no indication that these service tags indicate QoS. Rather, "A service tag is used to schedule the transmission order of the packets from the hosts. . .". See, Chuah, col. 9, lines 61-63.

Finally, the Examiner admits that Chuah fails to teach "prompting a user to select a requested level of service for [a] transaction". However, the Examiner asserts that this is taught by Jepson, which teaches a "method and apparatus for generating permanent virtual connections using graphical user [a] interface." See, 4/11/2005 Office Action, sec. 3, p. 3. More specifically, the Examiner asserts that Jepson teaches "prompting the user" in col. 9, lines 13-14.

In col. 9, line 8 – col. 10, line 3, Jepson discusses the selection of "traffic descriptors" and "traffic parameters", such as a "Peak Cell Rate of High Priority Cells", a "Peak Cell Rate of Low Priority Cells", a "Sustained Cell Rate of High Priority Cells" and others. A user's selection or setting of these parameters is used to establish a "permanent virtual connection". See, Jepson, col. 3, lines 30-31. Jepson defines a permanent virtual connection as follows:

> A permanent virtual connection is a connection from one side of a switch to the other side of the switch.

Jepson, col. 1, lines 46-47.

> A permanent virtual connection can be compared to a "nailed-up" connection in conventional telephone equipment. In a nailed-up connection, two parties who need to communicate often, can avoid per-call toll charges. In this case, every time the dedicated telephone equipment is used, the only user who can be reached is the other party. On the other hand, a permanent virtual connection and a nailed-up connection can both be contrasted with a "switched virtual connection," which is comparable to the standard dialed-in connection used in conventional telephone equipment. In a switched virtual connection, the telephone user decides who to call every time the telephone is picked up. The parameters which determine routing and connections from one side of a switch to the other side of the switch are determined separately for every call, based on the number dialed by the user.
>
> Jepson, col. 1, line 66 – col. 2, line 14.

From the above teachings of Jepson, it appears that a permanent virtual connection is a dedicated connection between a user and one or more endpoints. However, the voice, video or data packets that are transmitted over such a connection are routed in a predefined manner. That is, where two network parties (or endpoints) need to communicate frequently, or on a regular basis, a permanent virtual connection may be established so as to eliminate the need to route packets between the parties on a "per transaction" basis (e.g., a per-call basis). Although the connection itself may be established based on traffic estimates that are input to a user interface, these traffic estimates do not appear to be assigned to any particular transaction.

Given that Jepson's teachings are directed to the creation of a permanent virtual connection over which transactions are routed in a predefined manner, rather than to a system where transactions are dynamically routed based on information (e.g., a requested level of service) that is assigned to particular transactions, Applicants do not believe it would have been obvious to combine Jepson's teachings with Chuah's teachings. That is, Jepson's disclosure that a user may be prompted to provide traffic parameters for creating a ***"permanent virtual connection"*** would not make it obvious to prompt a user to select a requested level of service that is then assigned to a ***transaction.*** Claim 1 is therefore believed to be allowable over Chuah's and Jepson's teachings.

Claims 2-4 are believed to be allowable at least for the reason that they depend from claim 1.

3. The Rejection of Claims 5, 9, 14, 15, 17 and 18 Under 35 USC 102(e)

Claims 5, 9, 14, 15, 17 and 18 stand rejected under 35 USC 102(e) as being unpatentable over Chuah (US Pat. No. 6,377,548).

With respect to claim 5, the Examiner asserts that Chuah teaches the selection of a requested level of service, based on user identification, in col. 33, lines 41-56. The Examiner further asserts that Chuah teaches "program code for assigning said requested level of service to said transaction" in FIG. 16. Applicants respectfully disagree.

What Chuah's FIG. 16 discloses is the assignment of "service tags" to each of a node's packets. However, these service tags do not designate QoS. Rather, "A service tag is used to schedule the transmission order of the packets from the hosts. . .". See, Chuah, col. 9, lines 61-63.

With respect to QoS, Chuah states:

> . . .If it is desirable to provide different QoSs to different connections from the same user, then different connection cookies are assigned to the same user; similarly, if it is desirable to provide different QoSs to different users (albeit potentially from the same wireless modem), then each user is given a different connection identity.

Chuah therefore discloses 1) the assignment of different service tags to different packets, and 2) the respective assignment of different QoS cookies or identities to different connections or users. Note that Chuah does not disclose the assignment of QoS tags to packets, but only to connections or users. *There is no indication that QoS tags assigned to connections or users are subsequently assigned to packets.* Claim 5 is therefore believed to be allowable over Chuah's teachings.

Claim 9 is believed to be allowable at least for reasons similar to why claim 1 is believed to be allowable.

Claim 14 is believed to be allowable at least for reasons similar to why claim 5 is believed to be allowable. In addition, claim 14 is believed to be allowable in that Chuah does not disclose "program code for reading said requested level of service from said service tag" or "program code for directing said transaction over said network based on said requested level of service read from said service tag." The Examiner asserts that the former is taught by Chuah at col. 30, lines 59-61. However, these lines only teach the assignment of service tags to packets. As already discussed, Chuah does not teach that the service tags incorporate QoS designators.

The Examiner asserts that Chuah teaches the direction of a transaction based on a requested level of service read from a service tag at col. 31, lines 13-15, and in FIG. 15A. Applicants respectfully disagree. Chuah teaches the ***queuing*** of packets at an access point based on service tags, but does not teach 1) the incorporation of QoS designators into the service tags, or 2) the ***directing of transactions over a network*** based on QoS designators.

Claims 15, 17 and 18 are believed to be allowable at least for the reason that they depend from claim 14.

4. Conclusion

Given the above Amendments and Remarks, Applicants respectfully request the issuance of a Notice of Allowance.

Respectfully submitted,
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